UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1991/66
22 January 1991

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Forty-seventh session
Item 10 of the provisional agenda

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Letter dated 15 January 1991 from the Permanent Representative of Costa Rica to the United Nations Office at Geneva addressed to the Under-Secretary-General for Human Rights

My Government has instructed me to forward you the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which it wishes to submit to the Commission on Human Rights.

At its forty-fifth session, the Commission decided to include on the agenda of its forty-seventh session the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which had been submitted by the Government of Costa Rica in 1980 (decision 1989/104).

According to the decision, this draft "provided for a system of visits by a committee of experts to places of detention within the jurisdiction of the States parties to the Protocol" and "... could represent a major step forward towards the effective prevention of torture".

The Government of Costa Rica wishes to emphasize that this draft, which originated from the proposal made in 1976 by the late Genevan humanist Jean-Jacques Gautier, founder of the Swiss Committee against Torture, is intended primarily to prevent the scourge of torture and does not, therefore, overlap with any other established United Nations procedures.

When, in 1980 the Costa Rican delegation submitted this draft to the thirty-sixth session of the Commission, it requested that its examination should be deferred until after the Commission had completed consideration of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to which it refers. The Convention was adopted in 1984 and came into force in 1987. The Committee against Torture, which was entrusted with its execution has been established and has been working now for three years. Furthermore, a system of visits very similar to the one Costa Rica proposed in 1980 has been adopted in Europe under the European Convention for the prevention of torture and inhuman or degrading treatment or punishment. This Convention came into force in 1989. Nineteen countries of the Council of Europe have ratified it to date.

Following Commission decision 1989/104, the Government of Costa Rica feels that the time has come for the Commission on Human Rights to reconsider the draft submitted in 1980 (E/CN.4/1409). However, the text submitted 11 years ago is no longer suited to the present situation, because it was drafted when the Convention against torture was still in draft form. Since then, a Special Rapporteur of the Commission on Human Rights on questions relating to torture has been appointed and, at the regional level, a European Convention inspired by the same ideas is now a reality. Accordingly, a group of independent experts, including the foremost international legal experts on protection against torture, met in Geneva last November, at the initiative of a number of NGOs including the International Commission of Jurists and the Swiss Committee against Torture and, with the full consent of the Government of Costa Rica, drafted a new text to replace that of 1980. This text, while retaining the fundamental ideas of the 1980 draft, takes into account all the mechanisms that have been established since then, and seeks to supplement them, being chiefly concerned with prevention.

It is this text that we wish to submit to the forty-seventh session of the Commission on Human Rights, in the hope that the Commission will decide to have it examined by a pre-sessional or sessional working group, if possible at its forty-eighth session. Attached as an annex is the text of decision 1989/104, the new text of the draft optional protocol, and an introductory memorandum establishing its relationship to existing machinery for dealing with torture.

We would be grateful if you could distribute these documents at the next session of the Commission.

Thanking you in advance for your co-operation, I beg you to accept, Sir the assurances of my highest consideration.

INTRODUCTORY MEMORANDUM TO THE DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE PROPOSED BY COSTA RICA

1. Most instruments of international law aimed at combating torture become operative only after torture or ill-treatment have taken place. Individual applications to organs set up by international human rights conventions are only available to persons who have already become victims of such violations. The system being proposed here, inspired by an earlier proposal of Jean-Jacques Gautier in 1976, seeks to improve protection against torture through a system of preventive visits. A similar system has already been set up by the Council of Europe: 19 of its member States have already ratified the European Convention for the prevention of torture and inhuman or degrading treatment or punishment. The Government of Costa Rica would like such a system, which it proposed to the Commission in 1980, to be considered with a view to its application world-wide.

2. The text being submitted here, in the form of an optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, retains the main ideas of the draft Costa Rica submitted in 1980 but takes into account some of the major developments since then. It has been revised by a group of independent experts from 21 countries who met in Geneva from 29 November to 1 December 1990. The main features of this draft are given below.

I. MAIN FEATURES OF THE NEW SYSTEM

A. The proposed mechanism: A system of visits to places of detention

3. The draft protocol proposed the creation of a Sub-Committee for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment. As soon as 10 States have ratified the protocol the Committee against Torture would establish the Sub-Committee and elect its members. The members of the Sub-Committee would serve in their individual capacity and be chosen from among persons of high moral character, having proven professional experience in the field of prison or police administration or in the various medical fields relevant to the treatment of persons deprived of their liberty or in the field of the international protection of human rights.

4. The Sub-Committee would be responsible for organizing missions to the territory of States parties in order to visit places of detention. By ratifying the protocol States would agree to permit such visits to any place within their jurisdiction where persons are held for any reason whatsoever by a public authority or at its instigation or with its consent or acquiescence. The missions would be carried out by a delegation consisting of members of the Sub-Committee and experts. They would be entitled to visit any place of detention within the territory of States Parties and to see any person deprived of his liberty. After the mission, the Sub-Committee would draw up a report on the findings of the delegation and submit it together with recommendations, if necessary, to the State Party concerned. This report as well as consultations with the State Party would remain confidential unless the Committee against Torture, upon request of the Sub-Committee, subsequently decided to make a public statement or to publish the report because the State Party concerned failed to co-operate or refused to improve the situation.

B. A preventive and non-judicial system

5. The proposed system of preventive visits rests on the principle of co-operation. The purpose of the Sub-Committee would not be to condemn States, but, through advice, to seek improvements, if necessary, in the protection of persons deprived of their liberty. Thus, the Sub-Committee would not be entitled to perform any judicial functions; it would not have to decide whether violations of relevant international instruments prohibiting torture and inhuman or degrading treatment or punishment have been committed. Its task would be an entirely preventive one, namely to carry out fact-finding missions and, if necessary, on the basis of information obtained through them, to make recommendations. As the Sub-Committee would not be competent to hear witnesses in conformity with general principles of judicial procedure, situations could arise in which it would not have a sufficient basis for making recommendations if the facts are not clear enough. In such cases it may suggest further investigations including follow-up visits to places of detention already visited.

C. A system created within the framework of an optional protocol

6. As it seems, the adoption of a series of conventions for the prevention of torture on the regional level outside the Council of Europe cannot be reasonably expected at the moment. On the universal level, there are, in principle, three different ways to frame a system of preventive visits to places of detention:

(a) First, a new structure could be created at the United Nations level, totally independent from the Committee against Torture;

(b) Second, the Committee against Torture could be entrusted with carrying out preventive visits; and

(c) Third, as an intermediate solution, a subsidiary body could be created with a close relationship to the Committee against Torture.

7. When the 1980 Costa Rica draft was elaborated it was not possible to forsee the creation of the Committee against Torture by the United Nations Convention against torture; therefore the first Costa Rica draft proposed the setting up of an independent organ responsible for carrying out visits to places of detention. Today, such a proposal might not be the appropriate solution. There is not only a growing consensus that the proliferation of United Nations organs monitoring human rights should be stopped, but also a need to safeguard the coherence of the system created by the Convention against Torture. Thus, for political and legal reasons, the creation of a new body not having very close links with the Committee against Torture should be avoided.

8. Mainly two reasons speak against entrusting the Committee against Torture with the task of carrying out preventive visits:

(a) The Committee would be overburdened if - in addition to its duties under the Convention against Torture - it had to carry out visits to places of detention. This task can be very time-consuming. This would be true even if the actual visits were undertaken by delegates working on behalf of the Committee against Torture, because the discussion and adoption of reports as well as consultations with States Parties are important tasks;

(b) The creation of a Sub-Committee allows for a clear separation of the activity of preventive visits from the exercise of control by the Committee against Torture as embodied in articles 19 - 22 of the Convention against Torture. As the purpose of the optional protocol is not to condemn States but to have them co-operate in order to improve, if necessary, the situation of persons deprived of their liberty, it is hardly conceivable that the Committee against Torture could carry out this preventive task aimed at building up a relationship of trust if, at the same time, it has for instance, to handle communications from other States or individuals according to articles 21 and 22 of the Convention. To entrust preventive activities and quasi-judicial tasks at the same time to the same organ creates confusions and contradictions endangering and weakening both functions. Thus, the establishment of a Sub-Committee adds considerably to the impartiality of the proposed system of visits.

9. The Sub-Committee would work independently of the Committee against Torture to a large extent but be tied to it in four ways. According to the enclosed draft, the Committee against Torture establishes the Sub-Committee as soon as the requirement of 10 ratifications is fulfilled (arts. 2 and 18) and elects its members (art. 5). It examines the reports and recommendations which may be submitted to it by the Sub-Committee (art. 15). Finally, it decides, at the request of the Sub-Committee, about making a public statement or publishing the Sub-Committee's reports if a State Party fails to co-operate (art. 14, para. 2); the authority of the Committee against Torture and the "punitive" character of such statements or publications are factors which favour assigning this task to the Committee.

D. An efficient and impartial system

10. A system of preventive visits to places of detention will only be a useful instrument for combating and preventing torture if it can work efficiently. Effectiveness of such a system makes it necessary to entrust the task of carrying out visits to an organ with enough capacities in terms of legitimacy, persons and finances. The Sub-Committee would have these capacities:

(a) Being elected by the Committee against Torture (art. 5) the members of the Sub-Committee would be considered legitimate, and thus, its recommendations to States Parties would have sufficient authority;

(b) In order to work effectively the Sub-Committee has to have a certain minimal size; however, to avoid problems of co-ordination, it should not be too large. According to the draft, the Sub-Committee will have at least 10, but not more than 25 members; while there are less than 25 States Parties, the number of members shall be equal to that of the States Parties (art. 4). The fact that the Sub-Committee may be larger than the Committee against Torture (10 members) is justified by the different tasks of the two organs. As first experiences with the European Convention have shown, the actual carrying out of visits and drafting of reports can be very time-consuming. Extensive participation by members of the Sub-Committee is also necessary when the delegation is assisted by experts acting on the instructions and under the authority of the Sub-Committee (arts. 10 and 11);

(c) The effectiveness of the system will, finally, largely depend on the financial means available to the Sub-Committee. In principle, the proposed

system of visits would have a sound financial basis if its costs were borne by the United Nations budget. However, because, according to article 18, paragraph 5, of the United Nations Convention against torture, States Parties to the Convention are responsible for the expenses of the Committee against Torture, it might be difficult to realize this solution within the framework of an optional protocol. Therefore, in order to minimize potential financial difficulties, one could take into consideration the establishment of a special fund based on voluntary contributions which could supplement the contributions of States Parties (draft art. 16).

II. RELATION TO OTHER SYSTEMS OF VISITS

11. The optional protocol must very carefully regulate the relation to other systems of visits so as to avoid overlapping and conflicts that may occur with other international instruments aimed at combating torture.

A. Relation to the United Nations Convention Against Torture

12. According to article 20 of the Convention against Torture, the Committee against Torture is authorized to carry out visits in the territory of a State Party with its consent, in the context of a confidential inquiry, if there are "well-founded indications that torture is systematically practised". In order to avoid mixing the *a posteriori* control carried out by the Committee with the preventive tasks of the Sub-Committee, the Sub-Committee shall postpone missions to the territory of a State Party as soon as its authorities have agreed to a visit of the Committee against Torture according to article 20, paragraph 3, of the Convention (draft art. 8, para. 2).

B. Relation to regional systems of visits

13. The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has entered into force and it is possible (although unlikely at the moment) that other regional systems will be created. It is therefore necessary to regulate the protocol's relation to similar systems on a regional basis. Such regulation should, on the one hand, avoid a duplication of efforts for States which have become parties to a regional convention. On the other hand, such States cannot entirely avoid being linked to the universal level if they ratify the protocol. It might be problematic if some State Parties could have their own nationals among the members of the Sub-Committee visiting places of detention on the territory of other States Parties, but could escape, at the same time, any control of their places of detention by the Sub-Committee simply because they also have ratified a regional convention establishing some kind of system of preventive visits. Therefore, a solution has to be found which does not exclude any obligations for States Parties which have also ratified a regional convention; at the same time, such a solution must avoid unnecessary duplications of visits.

14. Therefore, according to the draft (art. 9, para. 1), the Sub-Committee shall refrain, as a rule, from sending a mission to countries which have ratified a regional convention. In such cases, it may consult with the regional organs in order to co-ordinate activities. It will be up to the Sub-Committee and the organs concerned to define the kind and the extent of such co-ordination. However, subject to an agreement with the regional organ, the draft provides for the possibility of having one member of the

Sub-Committee participate as an observer in missions carried out under the regional convention. Permission by the State Party concerned is not necessary because it is given in advance by ratifying the optional protocol. Such observer of the Sub-Committee would participate in the visits of the delegation but neither in drafting the report nor in any consultations undertaken within the framework of the regional convention. However, he would be entitled to report back to the Sub-Committee about his observations. The Sub-Committee would neither be able to use this information in dealing with the particular State nor be entitled to make such information public. Normally, this very reduced form of visit which does not put an additional burden upon States Parties will be sufficient. Only in exceptional cases, e.g., if collaboration with the regional organs is not possible, if a State is not regularly visited by the organs of the regional convention, or if the situation in the country is particularly alarming, will the Sub-Committee decide to send its own mission to a country which has ratified both the optional protocol and a regional convention.

15. This solution allows for the co-existence of the universal system with regional systems: the ratification of a regional convention does not hinder the ratification of the optional protocol, and vice versa. There will not be an unnecessary duplication of efforts because, as a rule, States Parties will neither be burdened by visits under two different systems nor confronted with possible contradictory recommendations. It is to be hoped that the States Parties to the European Convention for the prevention of torture will be in a position to ratify the optional protocol in order to contribute to the strengthening on a universal level of activities undertaken for the effective prevention of torture.

C. Relation to ICRC

16. Finally, it is provided that the protocol will not affect the system of visits to places of detention conducted pursuant to the Geneva Conventions of 1949 for the protection of victims of war and their new Additional Protocols of June 1977, nor will it affect the rights of States Parties to authorize ICRC to conduct visits in situations not covered by international humanitarian law (art. 9, para. 2).

DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

The States Parties to the present Protocol,

Considering that in order to further achieve the purpose of the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the Convention) it is appropriate to strengthen the protection of persons deprived of their liberty from torture and other cruel, inhuman or degrading treatment or punishment, by resorting to non-judicial means of a preventive character based on visits,

Have agreed as follows:

PART I

Article 1

1. A State Party to the present Protocol agrees to permit visits, in accordance with this Protocol, to any place within its jurisdiction where persons deprived of their liberty by a public authority or at its instigation or with its consent or acquiescence are held or may be held.

2. The object of the visits shall be to examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the protection of such persons from torture and from other cruel, inhuman or degrading treatment or punishment in accordance with international standards.

Article 2

The Committee against Torture shall establish a Sub-Committee for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as the Sub-Committee); the Sub-Committee shall be responsible for organizing missions to the States Parties to the present Protocol for the purposes stated in article 1.

Article 3

In the application of this Protocol, the Sub-Committee and the competent national authorities of the State Party concerned shall co-operate with each other.

PART II

Article 4

1. The Sub-Committee shall consist of a maximum of 25 members. While there are less than 25 States Parties to the present Protocol, the number of members of the Sub-Committee shall be equal to that of the States Parties.

2. The members of the Sub-Committee shall be chosen from among persons of high moral character, having proven professional experience in the field of prison or police administration or in the various medical fields relevant to the treatment of persons deprived of their liberty or in the field of the international protection of human rights.

3. No two members of the Sub-Committee may be nationals of the same State.

4. The members of the Sub-Committee shall serve in their individual capacity, shall be independent and impartial and shall be available to serve the Sub-Committee effectively.

Article 5

1. The members of the Sub-Committee shall be elected by the Committee against Torture by an absolute majority of votes from a list of persons possessing the qualifications prescribed in article 4 and nominated by the States Parties to the present Protocol.

2. Within three months of the entry into force of the present Protocol, the accession of a new member or a vacancy, each State Party shall nominate three persons, at least two of whom shall possess its nationality. They shall be indicated in alphabetical order.

3. Subject to article 4, paragraph 1, the Committee against Torture shall hold elections whenever there is an accession to the present Protocol or a vacancy in the Sub-Committee.

4. A member shall be eligible for re-election if renominated.

Article 6

1. The members of the Sub-Committee shall be elected for a period of four years. However, among the members elected at the first election, the terms of five members, to be chosen by lot, shall expire at the end of two years.

2. In the election of the members of the Sub-Committee, consideration shall be given to equitable geographical distribution of membership, to a proper balance among the various fields of competence referred to in article 4, paragraph 2, and to the representation of different traditions and legal systems.

Article 7

1. The Sub-Committee shall meet for a regular session at least twice a year; for special sessions at the initiative of its Chairman or at the request of not less than one third of its members.

2. The Sub-Committee shall meet in camera. Half of the members shall constitute a quorum. The decisions of the Sub-Committee shall be taken by a majority of the members present, subject to article 14, paragraph 2.

3. The Sub-Committee shall draw up its own rules of procedure.

4. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee against Torture and the Sub-Committee under this Protocol.

PART III

Article 8

1. The Sub-Committee shall establish a programme of regular missions to each of the States Parties. Apart from regular missions, it shall also undertake such other missions as appear to it to be required in the circumstances.

2. The Sub-Committee shall postpone any such mission if the State Party concerned has agreed to a visit to its territory by the Committee against Torture pursuant to article 20, paragraph 3, of the Convention.

Article 9

1. If, on the basis of a regional convention, a system of visits to places of detention similar to the one of the present Protocol is in force for a State Party, the Sub-Committee shall only in exceptional cases, when required by important circumstances, send its own mission to such a State Party. It may, however, consult with the organs established under such regional conventions with a view to co-ordinating activities including the possibility of having one of its members participate in missions carried out under the regional conventions as an observer. Such an observer shall report to the Sub-Committee. This report shall be strictly confidential and shall not be made public.

2. The present Protocol does not affect the provisions of the Geneva Conventions of 12 August 1949 for the protection of victims of war and their Additional Protocols of 8 June 1977 by which the Protecting Powers and the International Committee of the Red Cross visit places of detention, or the right of any State Party to authorize the International Committee to visit places of detention in situations not covered by international humanitarian law.

Article 10

1. As a general rule, the missions shall be carried out by at least two members of the Sub-Committee, assisted by experts and interpreters if necessary.

2. No member of a delegation shall be a national of the State to be visited.

Article 11

1. Experts shall act on the instructions and under the authority of the Sub-Committee. They shall have particular knowledge and experience in the areas covered by this Protocol and shall be bound by the same duties of independence, impartiality and availability as the members of the Sub-Committee.

2. A State Party may exceptionally and for reasons given confidentially declare that an expert or other person assisting the Sub-Committee may not take part in a mission to its territory.

Article 12

1. The Sub-Committee shall notify the Government of the State Party concerned of its intention to organize a mission. After such notification, it may at any time visit any place referred to in article 1, paragraph 1.

2. The State Party within whose jurisdiction a mission is to take place or is being carried out shall provide the delegation with all the facilities necessary for the proper fulfilment of their tasks and shall not obstruct by any means or measures the programme of visits or any other activities which the delegation is carrying out specifically for or in relation to the visits. In particular, the State Party shall provide the delegation with the following facilities:

(a) access to its territory and the right to travel without restriction;

(b) full information on the places referred to in article 1, paragraph 1, including information requested about specific persons;

(c) unlimited access to any place referred to in article 1, paragraph 1, including the right to move inside such places without restriction;

(d) assistance in gaining access to places where the delegation has reason to believe that persons may be deprived of their liberty;

(e) producing any person deprived of his liberty whom the delegation wishes to interview, at the request of the delegation and at a convenient location;

(f) other information available to the State Party which is necessary for the delegation to carry out its task.

3. Members of the delegation may interview in private, inside or outside his place of detention, without witnesses, and for the time they deem necessary, any person deprived of his liberty under the terms of article 1. They may also communicate without restriction with relatives, friends, lawyers and doctors of persons who are or have been deprived of their liberty, and with any other person or organization that they think may be able to provide them with relevant information for their mission. In seeking such information, the delegation shall have regard to applicable rules of national law relating to data protection and principles of medical ethics.

4. No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Sub-Committee or to the delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

5. In urgent cases the delegation shall at once submit observations and recommendations either of general or specific nature to the competent authorities of the State Party concerned.

Article 13

1. In the context of a mission, the competent authorities of the State Party concerned may make representations to the Sub-Committee or its delegation against a particular visit if urgent and compelling reasons relating to serious disorder in the particular place to be visited temporarily prevent the carrying out of the visit.

2. Following any such representation, the Sub-Committee and the State Party shall immediately enter into consultations in order to clarify the situation and seek agreement on arrangements to enable the Sub-Committee to exercise its functions expeditiously. Such arrangements may include the transfer to another place of any person whom the Sub-Committee proposed to visit. Until the visit takes place, the State Party shall provide information to the Sub-Committee about any person concerned.

Article 14

1. After each mission, the Sub-Committee shall draw up a report on the facts found during the mission, taking account of any observations which may have been submitted by the State Party concerned. It shall transmit to the latter its report containing any recommendations it considers necessary and may consult with the State Party with a view to suggesting, if necessary, improvements in the protection of persons deprived of their liberty.

2. If the State Party fails to co-operate or refuses to improve the situation in the light of the Sub-Committee's recommendations, the Committee against Torture may at the request of the Sub-Committee decide by a majority of its members, after the State Party has had an opportunity to make known its views, to make a public statement on the matter or to publish the Sub-Committee's report.

3. The Sub-Committee shall publish its report, together with any comments of the State Party concerned, whenever requested to do so by that State Party. If the State Party makes part of the report public, the Sub-Committee may publish the report in whole or in part. However, no personal data shall be published without the express consent of the person concerned.

4. In all other respects, the information gathered by the Sub-Committee and its delegation in relation to a mission, its report and its consultation with the State Party concerned shall remain confidential. Members of the Committee against Torture, the Sub-Committee, its delegations and their staff are required to maintain confidentiality during and after their terms of office.

Article 15

1. The Committee against Torture shall examine the reports and recommendations which may be submitted to it by the Sub-Committee. It shall keep them confidential as long as no public statement in accordance with article 14, paragraph 2, has been made or as long as they have not become public in accordance with article 14, paragraph 3, of this Protocol.

2. Subject to the rules of confidentiality, the Sub-Committee shall every year submit a general annual report on its activities to the Committee against

Torture, which shall include information on the activities under this Protocol in its annual report to the General Assembly of the United Nations in accordance with article 24 of the Convention.

PART IV

Article 16

The expenditures incurred by the implementation of the present Protocol, including all its missions, shall be borne by the United Nations.

[1. States Parties shall contribute to the expenditure incurred in the implementation of the present Protocol on the basis of the scale used by the United Nations.

2. There may be established a Special Fund based on voluntary contributions of States, intergovernmental organizations, non-governmental organizations, private institutions and individuals.

3. The Special Fund shall supplement the financing by the States Parties of all the activities provided for in this Protocol. It shall be managed by the Sub-Committee, which shall report to a Board of Trustees appointed by the States Parties.

4. Any expenses, such as the cost of staff, interpreters and facilities, incurred by the United Nations pursuant to article 7, paragraph 4, shall be reimbursed by contributions of the States Parties and the Special Fund].

Article 17

1. The present Protocol is open for signature by any State which has signed the Convention.

2. The present Protocol is subject to ratification or open to accession by any State which has ratified or acceded to the Convention. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

3. The Secretary-General of the United Nations shall inform all States which have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 18

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.

3. No reservations may be made in respect of the provisions of this Protocol.

Article 19

Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties, the Committee against Torture and the Sub-Committee. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

Article 20

The members of the Sub-Committee and of its delegations shall be entitled to the facilities, privileges and immunities referred to in article 23 of the Convention.

Article 21

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Protocol to all States.

* * * * *

(Signed) Jorge Rhenan Segura
Ambassador
Permanent Representative

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1991/67
31 January 1991

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Forty-seventh session
Agenda item 4

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

Letter dated 30 January 1991 from the Permanent Representative of Palestine to the United Nations Office at Geneva to the Chairman of the Commission on Human Rights

1. The Israeli occupation authorities have imposed a strict curfew on all the Palestinian occupied territories since 17 January 1991. The curfew still continues, and serious shortage of food and medical supplies is being felt. Cases of illness and malnutrition are reported among the Palestinian people in the occupied territories, and the situation is getting worse every day. Moreover, any Palestinian, man, woman or child, who attempts to go out of a house to try to get some food, is being shot by the Israeli occupation forces.

2. We, hereby, request you to intervene directly with the Israeli Government, in the name of the Commission on Human Rights, in order that the Israeli occupation authorities lift the curfew without delay, for humanitarian reasons.

3. We also request you to consider the present memorandum as an official document of the forty-seventh session of the Commission on Human Rights.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL
E/CN.4/1991/68
E/CN.4/Sub.2/1990/49
5 February 1991

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Forty-seventh session
Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES
Forty-second session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES; REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Letter dated 14 May 1990 from the Chargé d'affaires of the Permanent Mission of the Socialist People's Republic of Albania to the United Nations Office at Geneva addressed to the Under-Secretary-General for Human Rights

I have the honour to transmit herewith part of a report submitted on behalf of the Council of Ministers by Comrade Manush Myftiu, Vice-Chairman of the Council of Ministers, to the seventh session of the eleventh legislature of the People's Assembly of the SPR of Albania on the improvement and democratization of penal legislation and some organizational measures.

I would appreciate it if you could arrange for this report to be circulated as an official document of the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-second session and of the Commission on Human Rights at its forty-seventh session.

(Signed) Alfred Papuçiu
Chargé d'affaires

THE IMPROVEMENT AND DEMOCRATIZATION OF PENAL LEGISLATION AND SOME ORGANIZATIONAL MEASURES

1. Drawing upon on the experience gained over a number of years in the struggle to defend the socialist social order and the rights and freedoms of citizens, the Council of Ministers has prepared the draft law "On some amendments to the Penal Code" dealing with a number of problems.

The establishment of the institution of rehabilitation or of the quashing of convictions

Our society is concerned that persons who, in the past have been convicted for the commission of a criminal offence, should be re-educated to enable them to become socially useful. The institution of rehabilitation is consistent with our lofty human principles, namely, that people are capable of mending their ways. In the final analysis, the criminal conviction is aimed at educating the offender. It is also the aim of the educational work undertaken by society vis-à-vis convicted persons.

2. Our country's experience shows that the educational role of society has been very effective and that the majority of persons who served their sentence gave proof of good conduct. They work and behave well in society. Social rehabilitation is thus put into practice. However, the Penal Code does not envisage legal rehabilitation for those who have committed offences.

3. In order to bring social rehabilitation into line with legal rehabilitation, provision has been made to introduce in the Penal Code the institution of legal rehabilitation and judicial rehabilitation. Legal rehabilitation means that the law itself annuls the punishment automatically when a convicted person has served a suspended sentence or a sentence involving confinement for up to five years, depending on the respective length of the period of detention, and has not committed a further offence. Judicial rehabilitation consists of the courts annulling the conviction, at the request of the State organ and the social organization.

4. This provision is applied in the case of persons sentenced to deprivation of liberty for a period exceeding five years and extending over the period of time that elapses after the sentence has been served if, in the course of this period, these persons have not committed a further offence and show by their behaviour their respect for the rules of society. The introduction of the institution of rehabilitation in the Penal Code, dictated by the democratic and human content of our socialist order, is an important measure aiming at the improvement and further democratization of our legislation which prescribes that persons who are rehabilitated will, from the legal and practical viewpoint, fully enjoy all the rights guaranteed by the Constitution and laws in force in the same way as all other citizens.

5. The draft law also envisages the introduction of the institution of prescription of legal proceedings and of the execution of sentences; this means the suppression or halting of proceedings for a criminal offence or the execution of the sentence when the legally prescribed times have elapsed, not only for petty offences, as is the case at present, but also for crimes.

6. The introduction of prescription means that it is accepted that a person who has committed a criminal offence is no longer a threat to society and it is unthinkable that he should be prosecuted and sentenced. It is a logical and humane solution.

7. The prescription is planned for periods ranging from 5 to 20 years depending on the level of social danger of the criminal offence. These periods may be doubled if the perpetrator of the criminal offence avoids prosecution, but in no case may they exceed 25 years. For crimes against the State, which incur the death penalty, there will be no prescription either as regards criminal prosecution or execution of the sentence.

8. Another aspect of the further improvement of our Penal Code is the introduction of the institution of release on parole.

9. To qualify for release on parole, the convicted person must give proof of good conduct, reflected in his work while serving his sentence. To be eligible for release on parole, he must have served not less than half of his sentence.

10. The Penal Code's provision of release on parole has become possible because the institutions in which convicted persons serve their sentences organize educational work to enable them to become useful members of society once again. This institution offers new scope for the further democratization of penal policy and the implementation of the line of the masses, because even social organizations, as well as the State organs, are entitled to propose this measure on behalf of a convicted person.

Reduction in the number of cases involving the death penalty

11. At present, the Penal Code envisages the death penalty in 34 situations. It has been applied exclusively for crimes posing a major threat to society.

12. The penalty has not been applied for many years for a large number of crimes expressly punishable by the death penalty. There are also 11 articles that prescribe the death penalty for crimes committed in wartime or under a state of emergency; they form an artificial adjunct to the Penal Code which, moreover, is applied in the normal situations of national life.

13. For this reason, the death penalty, as an extraordinary measure, will be limited and prescribed only for very serious crimes, such as betrayal of the homeland, espionage, acts of terrorism, sabotage, embezzlement of socialist property in specific circumstances, the plundering (extortion) of socialist and individual property and homicide. The death penalty is therefore abolished in 23 situations and remains in force in only 11 situations.

14. The proposal to rule out the death penalty not only for pregnant women, as is the current practice, but for any women, in any case and without any exception is very important; it is a further aspect of the socialist humanism that characterizes our order.

15. The draft law gives particular importance to refining the provisions on crimes against the State.

16. These crimes pose a serious threat to society. They include the criminal offences of defection and agitation and propaganda against the State. Since experience has so far shown that most of those who have tried to defect were immature persons, not often prompted by political and counter-revolutionary motives, provision has been made for defection, which continues to be a reprehensible act, to be no longer treated as betrayal of the homeland but rather as unlawful crossing of the frontier.

17. We hereby inform the People's Assembly that the Council of Ministers has prepared a draft law in the form of an amendment to the existing decree on issuance of passports stipulating that any Albanian citizen who applies for a passport for abroad will be entitled to receive one.

18. The Penal Code no longer describes as betrayal of the homeland the establishment of foreign or joint economic companies and institutions with monopolies and other States or the act of receiving credits from them, since it is not necessary for each prohibition prescribed by the Constitution to be sanctioned in the Penal Code. Also in the future, we shall not accept credits and sign various economic agreements containing political conditions that infringe our national sovereignty. If an employee of a State organ commits acts incompatible with the aforementioned provisions, he will be accountable on the grounds of misuse of authority. The abrogation from the Penal Code of this form of betrayal is therefore entirely justified.

19. The crime of agitation and propaganda is one of the crimes against the State for which amendments are proposed in the Penal Code. At the present time the Penal Code makes provision for punishment of fascist, anti-democratic, religious, bellicose and anti-socialist agitation and propaganda. The formulation of the crime of agitation and propaganda is very broad and offers scope for various subjective interpretations which in practice might have undesirable consequences because they might mean that persons might be described and condemned as enemies who are no such thing. Our Party and Government have always been at pains to ensure that citizens are defended against arbitrary interpretations and acts by any organ. Therefore, agitation and propaganda against the State are reformulated more clearly in the draft law.

20. The instrument considers as a crime only those acts of oral, written and other forms of agitation and propaganda aimed at overthrowing the social and State order established by the Constitution of the People's Socialist Republic of Albania, whereas fascist and bellicose agitation and propaganda continue to be a crime against the State and are dealt with in a special article.

21. With this new formulation, the new provision in the Penal Code concerning agitation and propaganda removes the danger of subjectivism and interpretations that might lead to the violation of the law and the democratic rights and freedoms of citizens enshrined in the Constitution, while at the same time it guarantees the protection of the State's interests.

22. By narrowing the definition of agitation and propaganda against the State, as we said earlier, the punishment prescribed for religious propaganda inter alia, is abolished. That is in conformity with practice, because thus far there has been no instance of criminal proceedings for such acts. In our

country the State is separate from religion and faith is a question of conscience for each individual. The abrogation from the Penal Code of the sanction for religious propaganda does not mean that we shall abandon atheist propaganda and educational work with the people. We hold the firm belief that these efforts will help to consolidate patriotism and national consciousness and that the interest of our nation and our homeland transcends any religious distinction. With their unique historical maxim "the Albanian's faith is the fact of being Albanian", our Renaissance forebears have bequeathed to us a heritage of enduring and very great value for our own time. Our Party and State will strive in the future to uphold our revolutionary patriotic traditions so that the question of the defence of freedom, independence, sovereignty and unity of the people will always transcend that of religion.

23. Deportation and expulsion as administrative measures were instituted in our country in specific historical circumstances and served to consolidate and protect our social order. However, in the present circumstances, with the development of our social and State order and the changes carried out in order to strengthen the rule of law and safeguard the interests of the citizens of our country, there is no justification for maintaining and applying the current decree on deportation and expulsion as administrative measures. A further reason for repealing this decree is that, in contrast to our entire legislation, coercive measures by the State are not linked by the commission of a criminal offence to individual responsibility and personal guilt. Besides, this decree is also at odds with the ongoing amendments to our legislation and the extension of the legal defence in the investigatory stage and during court proceedings.

24. The repeal of this decree will not create a vacuum because deportation and expulsion are now regarded as criminal sanctions that will be handed down by the court for a specific offence. Apart from that, the draft law "on preventive measures against individuals who pose a threat to the security of society", has been submitted to the People's Assembly for consideration and approval; the draft bill does away with some of the measures formerly included in the law on deportation and expulsion as administrative measures.

25. Preventive measures are taken against individuals conducting activities which, although not constituting a criminal offence, are incompatible with good conduct and social morality, against people who tend to commit criminal acts, who live entirely or partly on unlawful income, who encourage prostitution, the corruption of children or gambling, who refuse to perform socially useful work or who are members of criminal groups and associations.

26. These measures may be taken against persons over the age of 18.

27. Preventive measures will be awarded only by a court, in regular and prompt proceedings, guaranteeing the accused person the right to a defence counsel and the right to lodge a complaint.

28. The ninth and tenth plenums of the Party's Central Committee also adopted decisions on the upgrading of judicial bodies and guarantees of the legal defence of citizens.

29. In order to strengthen socialist legality, as well as the assistance to and supervision of the courts of zones and districts, to bring about an improvement in the quality of legal activity and to carry out more skilled and systematic work on the continuing improvement of legislation, a draft law has been prepared on the establishment of the Ministry of Justice. It will enable the Council of Ministers to cope better with the problems of justice and a series of other issues related to legal relations in our country.

30. The draft law on the establishment of the Ministry of Justice has been drafted in a way that is entirely consistent with the provisions of the Constitution, confirming the independence of courts in hearing cases. The Ministry will monitor the organization and functioning of the courts and will guide and control the administration of justice, without intervening in judicial proceedings. It is expected that the Minister of Justice, in order to consolidate socialist legality and in the interest of citizens, will have the right of petition, with a view to defending the law, against decisions by district and zone courts which are already irrevocable; this right does not infringe the principle of the independence of the courts.

31. Apart from the aforementioned responsibilities, the Ministry of Justice will also monitor the organization and functioning of the bar association, offices of bailifs and notaries. It will prepare draft codes, draft laws, etc. related to the organization and activities of courts, while at the same time giving its views on all draft legal instruments prepared by the Ministries and other central institutions before they are forwarded for consideration by the Council of Ministers.

32. The Ministry of Justice will also be responsible for co-ordinating work on the training of lawyers for various sectors, co-ordinating activities on publicizing laws, running the criminology and forensic medicine service, etc.

33. Thus far, the defence of the legal interests of citizens, the State and social organizations was assured, in accordance with the provisions in force, by the legal aid offices which in those cases prescribed by law, took on the defence of accused persons brought before the courts. However, the restoration of the bar association is an important measure which broadens the defence of the rights of citizens and helps to strengthen the rule of law. The bar association will render legal assistance to citizens, State organs and social organizations and will plead on behalf of their legitimate interests in court, in investigation proceedings and in arbitration and at the same time will influence the course of justice. The measures envisaged in the draft law will lead to the complete and effective implementation of article 102 of the Constitution which stipulates that a defendant shall enjoy the right to a defence, because now the citizen will be guaranteed professional defence in civil as well as criminal cases whenever he so requests. Moreover, this defence, is more comprehensive and for the first time encompasses the investigation procedure; this marks a new phase in the democratization of criminal procedure in our country.

34. Besides defending the legitimate rights and interests of the defendant and of parties to the investigation and legal procedure, the bar association will also offer all kinds of legal aid, participating in formulating indictments, applications for criminal proceedings, complaints against administrative bodies, etc.

35. The bar associations are expected to be organized as boards or associations of persons assembled on a voluntary basis. The intention is to establish for lawyers conditions such as will enable them to discharge their task properly, to be independent in their activities and to be objective.

36. In the context of simplifying the organs of justice, it is planned to abolish from the legal system the village, town and suburban courts which up to the present time have tried criminal cases and delivered verdicts, provided they were authorized to do so.

37. Their abolition is justified by the virtual ineffectiveness of their decisions in criminal, civil and administrative cases. According to the draft law which has been submitted, they will become organs of a social character, in the form of social courts, which will function at the level of the people's councils and will be elected by the people every three years in an open election. Their members will be social activists who have won the confidence of their fellow citizens. These courts will work closely with the social organizations and will make an important contribution to strengthening the unity of the people, by recourse to procedures for reconciling individuals who have lodged complaints about insults or physical attacks and those who have committed them, without handing down a sentence on conviction. It is planned that administrative offences shall be dealt with by special organs (the police, the body of inspectors, etc.).

38. The aforementioned amendments envisaged in the draft laws on the establishment of the Ministry of Justice, the bar association and the social courts make it necessary to amend and supplement, in due form, the codes of criminal and civil procedure, which are also subject to the approval of this assembly.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1991/69
7 February 1991

ENGLISH
Original: ARABIC/ENGLISH

COMMISSION ON HUMAN RIGHTS
Forty-seventh session
Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Letter dated 7 February 1991 from the Chargé d'affaires of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

I have the honour to enclose herewith a letter dated 6 February 1991, addressed to you by the Secretary of the People's Bureau for Foreign Liaisons and International Co-operation.

I would be grateful if this letter would be distributed as an official document of the Commission on Human Rights under agenda item 12 of its fort' seventh session.

(Signed): Ibrahim A. OMAR
Chargé d'affaires

ANNEX

The United States of America has kidnapped five senior Libyan Officers who had been prisoners of war in Chad, and has removed them by force from Zaire territory to an unknown place. There is no doubt that the United States will endeavour to use them for ends hostile to their country, and perhaps for acts of sabotage that would serve its own interests.

The kidnapping and the related hostile, criminal and inhuman acts are a flagrant violation of the 1949 Geneva Convention relative to the Treatment of Prisoners of War, and are clearly incompatible with its provisions. Apart from the fact that the United States is neither a protecting Power under the Convention, nor a neutral Power, it is not a party to the conflict. The provisions of this Convention, or of any other convention, do not authorize it to take any action regarding the Libyan prisoners of war; any such action would therefore be devoid of legality.

By this action the United States has also failed to fulfil the contractual obligations of Contracting Parties under Article I to ensure respect for the provisions of the 1949 Geneva Convention relative to the Treatment of Prisoners of War.

These flagrant violations on the part of the United States Administration of the provisions of the 1949 Geneva Conventions, especially the third Convention, oblige us resolutely to call for action that would enable the Libyan prisoners of war to return home immediately. We also call upon the United States authorities to respect the international Covenants and Conventions already adopted by the international community.

(Signed): Ibrahim Mohamed El-Bishari,
Secretary of the People's Bureau
for Foreign Liaisons and
International Co-operation

List of Officers
referred to in the letter

1. Col. Khalifah HAFTAR

2. Col. Saleh El-HABOUNI

3. Maj. Abdallah El-SHAYKHI

4. Capt. Salem El-ZEIGIN

5. Lt. Misbah Ahmad JUMAH

- - - - -

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1991/70
7 February 1991

ENGLISH
Original: ARABIC/ENGLISH

COMMISSION ON HUMAN RIGHTS
Forty-seventh session
Agenda item 12 (b)

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

SITUATION OF HUMAN RIGHTS IN OCCUPIED KUWAIT

Letter dated 5 February 1991 from the Permanent Mission of Kuwait to the United Nations Office at Geneva addressed to the Under-Secretary-General for Human Rights

Please find enclosed the report of the situation of human rights in occupied Kuwait which we are submitting for consideration as an official document of the forty-seventh session of the Commission on Human Rights.

We will appreciate very much that the document be translated into the official United Nations languages so it can be circulated when the Commission will discuss sub-item 12 (b) of the agenda.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest considerations.

Signed: Dr. Salem Jaber Al-Sabah
Ambassador
Permanent Representative

Annex

Report on the situation of human rights in occupied Kuwait

Agenda item 12 (b)

With the barbaric Iraqi invasion of Kuwait in the early hours of 2 August 1990, the stage was set for a many-faceted human tragedy. Both nationals and residents of Kuwait fell victim to criminal and inhumane acts committed by the Iraqi forces. From the very beginning of the invasion, the Iraqis committed the most heinous crimes, including murder, rape, arrests, threats and the destruction and looting of public and private property. It was clear that these barbaric and repressive practices were planned in advance by the Iraqi authorities as a means of achieving the primary objective of the invasion: to humiliate, demean and terrorize the Kuwaiti people and to obliterate the Kuwaiti national identity as a first step towards the achievement of their political plan of occupying Kuwait and annexing it to Iraq.

The barbaric practices of the Iraqi forces in Kuwait constitute a flagrant violation of the Geneva Conventions of 1949, which embody international human rights principles and are binding on all States Parties, including Iraq. The Arab Organization of Human Rights says in a report dated 16 October 1990 on the "Situation of Human Rights in Kuwait since the Iraqi Invasion" that "there has been a violation of almost every single paragraph of the body of international legislative instruments constituting international law and international human rights principles that have evolved as binding law for all parties, including Iraq".

Under an information black-out and with the refusal of Iraqi forces to allow humanitarian organizations to investigate violations of human rights in Kuwait, the Iraqi authorities committed daily the most outrageous mass and individual crimes against not only Kuwaitis, but also most Arab and non-Arab residents. Fearing these criminal acts, people stayed at home in terror and in fear, not knowing when Iraqi soldiers would break in to loot property, arrest a family member or sexually assault a woman.

People did not leave their homes because they wanted to spare themselves degrading and rough treatment at the hands of Iraqi soldiers at checkpoints. The soldiers normally harassed people and often stole their money, watches, pens, identification documents and even cars. People became more afraid to leave their homes when Iraqi soldiers used the checkpoints as stations for making arrests. While a driver sat behind the wheel, an Iraqi soldier would place a bullet or a leaflet in the trunk of the car, thus producing false evidence to warrant the arrest of the driver. Many people were thus arrested at these points. Movement, even for essential purposes, became difficult because of these checkpoints and the degrading treatment by Iraqi soldiers. To tighten their grip on Kuwait and their control over the population, moreover, the occupation forces imposed night-long curfews.

Iraqi soldiers resorted more frequently to mass punishment to induce fear in the population. They often arrested and tortured all members of a family in order to find one person, thus violating article 33 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1949). Iraqi soldiers would burn down several houses if the body of one

Iraqi soldier was discovered or a shot was heard in the area. In this respect, attention is drawn to the Amnesty International report of 19 December 1990, which states that, on 7 September, after resistance in Kaifan, "Iraqi soldiers surrounded the area with their tanks and bombarded it with artillery fire, destroying a number of houses. In mid-September, Iraqi forces, upon discovering the bodies of four soldiers, surrounded the area, searched homes and burnt down 25 houses."

Iraqi soldiers also committed collective organized sabotage, looting and theft of Government offices, hospitals, schools, Kuwait University, research institutes and laboratories, companies, shops, private homes, stores, garages, etc.

Iraq stole 15 Kuwait Airways aircraft, as well as equipment and spare parts that were found in abundance in maintenance workshops and warehouses. They also stole equipment and medical supplies from hospitals and the Ministry of Health. They concentrated especially on dismantling and removing modern medical equipment from specialized medical centres, such as Hussein Makki Jomaa Hospital for the Treatment of Cancer and Hamed Al-Issa Centre for Kidney Treatment, Ibn Sina Hospital for Eye and Nerve Surgergy, Al-Razi Hospital for Bone Surgery and the Obstetrics Hospital, where they stole incubators, leaving 300 underdeveloped babies to die without any religious, human or ethical scruple (see report of Amnesty International, December 1990, p. 56).

From schools, Iraqis took away chairs, desks, blackboards and other educational equipment in addition to books. Kuwait University was not spared the looting, for Iraqis dismantled and removed research equipment and teaching aids from laboratories, as well as thousands of the latest computers and books, periodicals, documents and manuscripts from libraries, and destroyed remaining files and officials papers. The Iraqis used schools and university buildings as centres of detention and torture and as barracks for soldiers and they set up anti-aircraft artillery on the roofs. Kuwait's Institute of Scientific Research, considered the most modern and most important scientific research centre in the Middle East, particularly in the areas of petroleum, agriculture, fisheries, energy and environmental research, was also ransacked. Iraqis stole scientific equipment and computers and took away books, periodicals and scientific reports from the Institute's specialized library.

Iraqis also stole Kuwait's reserves of gold ingots and cash from the Central Bank and the contents of the Treasury. They took away the assets of national banks and their looting spread to garages and car stores. According to car suppliers' estimates there were at least 10,000 new cars in the warehouses and stores at the time of the invasion and they were all stolen. The Iraqis also stole thousands of tons of foodstuffs from private dealers and food companies and the stores of co-operatives, thus producing a severe shortage of foodstuffs in Kuwait.

The Iraqis concentrated their efforts on confiscating the property and funds of senior Government officials and Kuwaiti families, destroying or burning houses and other property following looting. The Iraqis also removed the contents of the Kuwait National Museum which houses Kuwait's historical relics, some dating from 6600 B.C., as well as precious traditional Kuwaiti and rare Islamic pieces which were transported in a primitive way, that damaged many of them and made them worthless. These acts are contrary to

article 53 of Additional Protocol I to the Geneva Conventions of 1949. There is no doubt that this criminal act harms not only Kuwait, but Islamic and world civilization as a whole, since these rare pieces form part of mankind's history and civilization.

The Iraqi authorities deprived Kuwaiti citizens of personal freedoms which they enjoyed before the invasion, such as freedom of movement, freedom of expression, freedom to work and freedom of education. The occupation forces set up checkpoints everywhere and controlled schools and the media, including radio, television and newspapers. They stole printing equipment from publishing houses and newspapers and published a daily newspaper containing military communiqués and decisions of the Iraqi leadership. A decision published by the Iraqi authorities threatened that Kuwaiti officials of higher grades who did not resume work as of 22 September 1990 would be liable to the death penalty.

As a result of these repressive and barbaric practices, hundreds of thousands of citizens and foreigners fled the country to save their lives and honour, leaving behind their property and relatives. One of the main reasons for the departure of Kuwaiti families from their country was the daily harassment by Iraqi forces and intelligence officers in search of military personalities and officials of the Ministry of the Interior, national guard and special forces officers, as well as members of the National Assembly and the National Council, other leading personalities and businessmen, any other persons who might be suspected of collaborating with the resistance and any personality that might play a leadership role in the country. Kuwaiti families were thus dispersed in various capitals of the world. In addition to nearly 300,000 citizens who left Kuwait after the invasion, there were over 100,000 Kuwaitis abroad for the summer holidays. Whether they are in Kuwait or outside the country, Kuwaitis have been living in despair since the invasion and in a disturbed psychological state owing to the breakdown of contacts between the members of families in Kuwait and those abroad.

What is happening in Kuwait has obviously drastically affected the psychological state of Kuwaiti children, especially those who live through the nightmare watching aircraft fly over their homes, hearing the deafening noise of guns and seeing their relatives arrested or shot. Thousands of children have fled the country with their families to escape the daily torture, leaving behind relatives, books, toys, playgrounds, friends and memories. Kuwaiti children have become refugees not knowing their own destiny.

The above are only a few examples of many inhumane and repressive practices by Iraqi authorities in occupied Kuwait. Such practices have no precedent in history and no explanation or justification, especially as there had never been any hostility between the two neighbouring Muslim peoples of Iraq and Kuwait. The only possible explanation is that these practices are simply a reflection of the greed of the Iraqi ruling authorities and their desire to plunder Kuwait. This is an aggressive scheme aiming at dispersing the people of Kuwait, obliterating the Kuwaiti national identity and removing the name of Kuwait from the world political map. The Kuwaiti citizen lost his right to self-determination when the Iraqi authorities, in violation of international law and custom, annexed a large part of Kuwaiti territory to the Basrah Governorate and called the remaining part of Kuwait the nineteenth Governorate of Iraq. The Iraqi authorities have also undertaken other measures to Iraqify Kuwait, such as:

Forcing Kuwaitis to replace Kuwaiti identity cards by Iraqi cards;

Changing names of districts, streets, hospitals and public buildings;

Prohibiting the use of the Kuwaiti dinar after placing it on a par with the Iraqi dinar, which is worth 14 times less;

Making Kuwaiti time the same as Iraqi time (there is a one-hour difference);

Removing the picture of the Emir of the country and putting Saddam Hussein's picture up in establishments and public places;

Replacing Kuwaiti car number plates by Iraqi plates; if plates were not changed, no petrol was allowed and the car would be confiscated;

Setting up large portraits of Saddam Hussein in public squares and main streets;

Installation of Iraqi families in Kuwait; and

Taking away passports and other identity documents from Kuwaitis leaving Kuwait.

Arrests

Immediately after entering Kuwait, Iraqi forces started the implementation of their plan of aggression by arresting Kuwaiti citizens in the streets of Kuwait, especially at checkpoints set up at strategic points in the capital and other towns in contravention of the general provisions of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1949). Iraqi army and intelligence officers arrested more than 1,000 Kuwaiti citizens, including businessmen, chairmen and members of the boards of banks and companies and senior officials in the Ministry of Finance and the General Authority for Investment. A large number of senior officials were arrested, particularly those working in the Ministries of Foreign Affairs, the Interior and Defence.

In each case, the Iraqis do not indicate either the reason for the arrest or the charges. Detainees are taken to detention centres which were set up in sports clubs and schools. Relatives of detainees are not allowed to visit them or even ask questions about them. It is known that some detainees were released after paying bribes to Iraqi officials, who are usually corrupt. Arrest is usually accompanied by violence and ill-treatment not only of the detainee, but also of all members of the family and any other person who may be involved in the matter, even by simply asking about the reason for the arrest.

Detention has increased sharply since mid-August, as Iraqi forces started to hold Kuwaiti youths to stop them from taking part in the resistance. One way or another, more than 100,000 persons were arrested at checkpoints and during the night. The Iraqi forces arrested many women and children, accusing them of writing statements of loyalty to their country and legitimate Government on the walls. In many cases, the person concerned is not arrested alone, but is taken along with all members of his family and all of them are

subjected to torture. If Iraqi forces find themselves unable to arrest a certain person, they arrest all members of his family, as well as his neighbours and acquaintances, and subject them all to torture in order to force the person concerned to hand himself over to Iraqi authorities, in violation of article 53 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1949). According to official Kuwaiti statistics, there are some 8,170 military detainees in Baghdad and Mosul alone. There are 30 Kuwaiti women detained in Kuwait and 400 Kuwaiti women detained in Baghdad in addition to 50 Kuwaiti families detained in Basra. We do not yet have accurate statistics on the number and fate of other civilian detainees.

Detention may last for one day or several months; the fate of a large number of Kuwaiti citizens detained at the beginning of the invasion is still unknown. The Iraqi authorities do not permit visits to detainees, and on more than one occasion, any person who asked questions about the detainees was detained himself. It is also known that thousands of Kuwaiti detainees were removed to Basra, Baghdad and Mosul under very harsh and dangerous conditions. According to one detainee's account, during the first few days of the invasion, the Iraqi authorities tied detainees up hand and foot and left them in the desert without food or water. It should be noted that the temperature at that time was over 50° C in the shade. An official of the Kuwaiti Red Crescent Society says: "Daily aggressions and harassment of citizens have become a matter affecting people to a great extent; no man can move freely or without fear of detention, murder or kidnapping. Raids on houses became an ordinary event that was to be expected by any citizen at any time and arrest and torture became a danger threatening every person without exception. The Iraqi authorities do not bring detainees to trial; detention and investigation of individual cases under torture, punishment and even killing take place in the many detention camps in Kuwait depending on the mood of the intelligence and other occupation authorities".

There are many examples of arrests in official reports of the Government of Kuwait and the reports of international human rights organizations, such as Amnesty International, the Arab Organization for Human Rights and Middle East Watch, of which we quote some examples:

Iraqis arrested a number of former members of the National Assembly (Parliament) and the current members of the National Council and tortured them as a punishment for their refusal to co-operate with the occupation authorities. Reports mentioned the names of Mr. Mubarak Addoweileh, Mr. Khaled Sultan Al-Issa, Abdel-Kerim Aljoheidly and Jasser Aljasser.

Mr. Nihal Mokrad, former Secretary-General of Kuwait Labour Union, was arrested in the first days of the occupation and his whereabouts are still unknown.

Mr. Hamad Soyan, Chairman of the Union of Petroleum Workers, was detained more than once and his fate is still unknown.

A Kuwaiti citizen in his sixties (his family requested that his name should be withheld for his safety) who is a well-known businessman was arrested on the evening of 3 August at his home when soldiers came to inquire about one of his relatives who happened to be abroad at that time. This citizen was taken in place of the relative and, until now, no member of his

family knows where he is being detained or how the state of his health is. He is known only to have been removed along with thousands of other detainees to Iraq.

In October, four young men were detained in Kaifan by Iraqi soldiers who saw them distributing frozen fish to citizens. These young men had already obtained a written authorization from the officer responsible for the district to do this job. Their fate is still unknown.

A 16-year-old Kuwaiti student at Farwanieh School was detained on 1 October for violation of the curfew and was taken to the police station of Rabia and placed in a cell with four other detainees. He was tortured and beaten every day and his body was burnt with a hot iron rod, which left a scar in the form of the letter H. He was released after being threatened that he would be murdered if he was arrested again.

On 10 November, an Iraqi officer went to Alfayhaa Co-operative and tried to enter the Co-operative, but officials of the Co-operative asked him to take his turn in the queue. The officer came back later in the evening with a number of soldiers and arrested the young men who work in the Co-operative and detained them in the Alfayhaa police station, accusing them of stealing municipality cars. A decision was made to detain them for 15 days prior to trial in Al Basra. However, after giving the officer a bribe of a television and a video cassette recorder and obtaining a letter from the municipality stating that the cars were given to the Co-operative as a gift, the five men were released.

Six doctors and officials of the Kuwaiti Red Crescent Society were arrested after being invited to a meeting with officials of the Iraqi Red Crescent Society; the meeting was never held. After being detained for 26 days, they were released and a decision was taken to dissolve the Kuwaiti Red Crescent. This decision had adverse effects on the health situation in Kuwait, as this Red Crescent Society was the only organization offering humanitarian services in the absence of the health system that had collapsed as a result of the invasion.

A 33-year-old Kuwaiti citizen who worked in the General Authority for Agriculture was detained on a charge of giving assistance to the resistance. His family, including his children, were cross-examined by the Iraqis, who threatened to detain them if they did not testify against him.

Iraqi forces raided the house of the noted Kuwaiti politician, Mr. Faisal Assanei, on 25 September and detained him with his 13-year-old son, Ziad, as well as 17 other persons who were visiting him. After detention and torture for three months, they were all released except for Mr. Assanei, whose whereabouts are still unknown.

A 22-year-old Kuwaiti, Abdullah Assalem, was arrested on 27 August upon leaving his house in the evening. He was detained for 17 days during which he was subjected to severe torture to make him give information on the resistance. Members of his family were harassed daily with telephone calls while he was in detention.

The Arab Organization for Human Rights states in its report on the "Situation of Human Rights in Kuwait Since the Iraqi Invasion" that reports received by the organization speak of the arrest of some elements of the Iraqi

opposition who were living in Kuwait before the invasion and their deportation to Baghdad. The organization received the names of several of those opposition elements. Human rights circles are very concerned because some of those detainees are charged with membership of the prohibited Islamic Adda'awa (call) Party which is punishable by death in Iraq.

These are a few examples of detentions which have become a matter of routine in occcupied Kuwait. The most striking examples of detentions are perhaps those of Western and Japanese nationals. The plight of those taken to Iraq to be used as human shields will be discussed below.

Acts of torture and violence

Immediately upon entering Kuwait, the forces of aggression started their practices of violence, intimidation and arrests in violation of international customs and the Geneva Conventions of 1949. The Iraqi authorities resorted to the most heinous methods and developed the most cruel ways of torturing innocent Kuwaiti citizens in violation of articles 27, 31 and 32 of the Geneva Convention Relative to the Protection of Civilians in Time of War (1949). The above-mentioned Amnesty International report states that the Iraqi authorities used 38 different ways to torture detainees, the worst of which include plucking out the eyes, breaking bones, throwing the person from a rooftop, pulling out fingernails and toenails, drilling the hands and feet with an electric tool, cutting off tongues and ears, close-range shooting, rape and applying electric shocks to sensitive parts of the body.

Torture is used as a means of obtaining information on senior Government officials and the hiding places of members of the resistance, of army personnel and of foreigners, particularly Americans, British and French, and of forcing Kuwaiti citizens to co-operate with the Iraqis to abort resistance in all its forms and spread fear among the Kuwaitis.

Thousands of innocent Kuwaiti men, women and children have suffered from these terrorist acts and savage practices. No doubt the effects of most of these crimes will be permanent and will cause psychological disturbances for life. In this report, we record some cases of torture practised by the occupying Iraqi forces in Kuwait to illustrate the inhumane treatment of detainees.

Iraq is treating all detainees in a savage way; they are blindfolded, beaten, given electric shocks and crowded into very small rooms under very difficult conditions. The Iraqis starve detainees, throw garbage and rotten foodstuffs on them, allow them to go to the bathroom only once a day and give them contaminated drinking water which causes various intestinal diseases and diarrhoea. As part of the psychological torture of detainees and their families, Iraqi forces stage mock executions of detainees and contact their relatives in the middle of the night to give them terrifying accounts of what happened to their children.

In some cases, the torture of detainees continued for several days to force them to give false statements. Before a detainee was released, Iraqi authorities would force him to sign false statements, to undertake to carry out the instructions of the Iraqi forces and to co-operate with them at the risk of execution and killing his relatives if he did not obey those instructions.

An official of the Kuwaiti Red Crescent who was detained said that "Iraqi soldiers used to kick detainees in the stomach with their heavy army boots. I saw one of the detainees urinating blood, perhaps as a result of a haemorrhage in the kidney, his face showed signs that his hair had been pulled out by force and his nails had been pulled out; I also saw another detainee forced to walk after severe beating on the soles of his feet; he was screaming and his face and clothes were blood-stained".

Following are examples of torture as described in official Kuwaiti reports and reports of human rights organizations.

A 32-year-old Kuwaiti was arrested on 3 August on his way home after buying some food from the co-operative. He was detained for five days in the Salibieh police station, where he was beaten, given electric shocks and shot in the foot at close range.

A man in his thirties was arrested in the third week of August and again on 20 September on charges of membership in the armed forces and the Kuwaiti resistance. He was detained in a school, from which he was moved to Jahra police station, where he was beaten, kicked, given electric shocks and had heavy objects placed all over his body.

A 22-year-old student was arrested on 24 August during house searches in Roda district. He was detained for eight days in Roda police station and removed to Farwanieh police station, where he was beaten, kicked and burnt with cigarette butts on various parts of his body; his thigh was gashed with a knife.

A Kuwaiti 17-year-old boy was arrested in early September on the charge of possession of a rifle and manuals on weapons. He was detained for 36 days in several camps in Kuwait and Basra where he was exposed to beatings, mock execution, beatings on the feet and electric shocks and was threatened with sexual assault.

A 38-year-old citizen was arrested on 5 September on the charge of membership of the Kuwaiti resistance. He was detained in Showeikh district before he was moved to Basra. He was exposed to beatings, mock execution, torture by exposure to extreme cold and hot temperatures, was burnt with electric shocks and was hanged from a ceiling fan.

A 31-year-old citizen was arrested on 14 September in Dewanieh at his home and detained for three weeks in Farwanieh and Jahra police stations and in a Kuwaiti house used as a detention centre. Later he was removed to Basra where he was exposed to beatings, electric shocks and mock execution; he was forced to watch his relatives under torture and he was tortured before their very eyes.

A Kuwaiti youth in his thirties was arrested on 22 September on a charge of possession of leaflets describing methods of protection from chemical weapons. He was tortured for a week by beatings, kicking and burns, as well as sexual assault, in Farwanieh police station.

A 27-year-old student was arrested on 22 September after entering Kuwait to help his family leave the country. He was detained for 18 days in various detention camps in Kuwait City. Later he was removed to Basra and he was exposed to beatings, whipping, cold and hot temperatures for long periods and electric shocks.

An 18-year-old youth living in Sorra was detained in Farwanieh police station. When he returned to his family 10 days later he could neither walk nor talk normally. He was assaulted sexually and tortured with electric current on his genitals, ears and lips and was hanged by the feet.

A handicapped 24-year-old youth living in Do'ayah gives an account of his suffering with his handicapped colleagues: "They dragged me out of bed, I was taken to the police station, where I was beaten with a heavy stick on the first day; my body was black and blue with many bruises; I was threatened with execution and the aluminium bar I wore on my disabled leg was broken; after I was moved to the juvenile offenders' prison in Ferdaws district, I saw boys of 14-15 years and I heard their screams under torture. I shared the room with two others; one limped and was 16 years old; these were signs of torture and beating on his face. The other was 25 years old.

A 31-year-old Kuwaiti doctor specializing in vocational medicine who worked as a volunteer in Ahmadi and Al-Agdan hospitals during the months of August and September gave the following account of some aspects of Iraqi crimes:

Bodies were brought to the hospital at the rate of five or six a day. The dead were all males in their twenties with very clear signs of torture on their bodies. On the basis of my personal observation I could determine some of the methods of torture used on them. These included cigarette burns, burns caused by hot irons, electric shocks, cutting off tongues and ears, plucking out eyes and breaking of limbs, pulling out nails and beatings for a long time on the soles of the feet until pus formed. There were other clear signs that victims were left hanging by their feet for a long time. On other victims, there were signs that their beards were plucked out by force. Bullet shots were clear in the hand of one of the victims and in the thigh of another. In most cases, death was caused by one shot to the lower part of the back of the head.

Another doctor working in the Kuwaiti Crescent gives another account of dreadful torture before death:

> "I examined 60 bodies of persons who were killed by a shot to the lower part of the back of the head. Signs of torture were clear on 60 bodies, including burning various parts of the body, breaking of limbs, beatings by sharp heavy objects, plucking out the hairs of the beard (in the case of one person), pulling nails off fingers and toes, electric shocks to the genitals (three cases) and cigarette burns in the eyes (three cases). It was clear that some victims died under torture and not by shooting."

Mohamed, a 20-year-old Kuwaiti youth who lived with his 80-year-old grandmother was detained and returned to the house with his eyes plucked out. Iraqi intelligence officers rang the bell and asked the grandmother to come and see him. She could not because of her old age and because she was blind.

The Iraqis forced every person in the house to leave the house and to stand in one line in front of the house. They carried Mohamed from the car because he was unable to walk and shot him in the presence of his family and left his body on the street. They did not allow anyone to come near the body for 24 hours and prevented everyone from entering the house to console the grandmother.

A Kuwaiti youth of the Deshti family was arrested at his house in the middle of the night. Three days later, the Iraqis threw his body in a garbage sack. The body had no hands or ears and there were signs of torture on the other parts of his body.

Arbitrary killing

Iraqi invading forces and intelligence in the State of Kuwait since 2 August 1990 have practised the most heinous crimes of murder against innocent persons in occupied Kuwait. Hundreds of children, women and men, Kuwaitis and foreigners alike, were victims of these crimes which are violations of all international conventions and customs.

These crimes have shown the world the unspeakable truth of the intentions and methods of the Iraqi régime in dealing with innocent persons. Perhaps the most outrageous crime committed by the Iraqi authorities was the deliberate murder of 300 newborn babies who were taken out of their incubators in the Obstetrics Hospital (report of Amnesty International, December 1990, p. 56) for no other reason than to steal the incubators and ship them to Iraqi hospitals. The atrocity of murder is demonstrated by the manner of killing people, especially detainees. After being tortured until they are nearly dead, they are taken to their houses, where they are shot in the head or the chest in the presence of all members of the family, particularly the elderly, children and mothers who are forced to witness these crimes.

Random horrendous killings spread terror throughout the population and no citizen felt safe. Iraqi authorities carried out death penalties and killings for the slightest reason, without consideration for the elderly, children, men and women, in violation of article 168 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War. Many children and citizens were killed for merely carrying the flag of Kuwait or the portrait of the Emir of Kuwait or for writing national slogans on walls, distributing food, collecting garbage or participating in peaceful demonstrations. Iraqi authorities applied the death penalty to those who refused to put up the portrait of Saddam Hussein when asked to do so. They further extended the death penalty as of 25 August to any person who accommodated a foreigner, particularly a Westerner. Iraqi authorities also made another decision threatening senior Kuwaiti officials with the death penalty if they did not resume work as of 22 September 1990.

According to available estimates, more than 1,000 civilians have been killed at the hands of Iraqi authorities since the invasion of 2 August 1990. Until this very day, the Iraqi authorities continue their practice of killing without trial and murdering innocent Kuwaiti citizens in order to intimidate the Kuwaiti people and force it to submit to occupation.

Some examples are given below of the crimes of murder committed by Iraqi authorities, as reported by official sources and international humanitarian organizations.

The Kuwaiti Ambassador in London, Mr. Ghazi Arrayis, told a television audience how the Iraqis killed his brother-in-law (brother of his wife), Mr. Adel Al-Fallah: "While he was having lunch with his wife and three daughters (one, four and six years old), Iraqi soldiers came to the house and arrested him for investigation. After a while, they brought him home. He was on the point of death as a result of severe torture; the soldiers ordered the wife and the three daughters, as well as the neighbours, to assemble in front of the house where they shot Mr. Al-Fallah in their presence. His crime was providing food to Western residents."

Citizen Mubarak Fallah Annout, 44 years old, father of eight children, worked as a director of a co-operative and was a peaceful man who devoted himself to the service of citizens from the very first day of the occupation. A member of his family said that he was ordered by Iraqi authorities on 7 September to hang Saddam Hussein's portrait in the co-operative instead of the portrait of the Emir of Kuwait. When he refused, he was shot in front of the co-operative in the presence of all the employees of the co-operative as well as passers-by.

Citizen Mohammed Khalifa Al-Jassem, 32 years old, was the chairman of a youth fund in Salmiya and was a volunteer worker in a co-operative. He drafted and printed some leaflets urging citizens to conserve foodstuffs. The Iraqi authorities considered his leaflets a hostile act against the occupation and executed him in the presence of a crowd.

Dr. Balhan (Kuwaiti national), deputy director of the Cancer Centre at Sabbah Hospital, was executed by Iraqi authorities after being accused of concealing medical instruments and supplies in a hospital store.

Citizen Ali Mohammed Al-Ajami, member of the national Petroleum Trade Union, was executed in front of his house and nine children, some of whom are not even 10 years old.

Citizen Sanaa Annoury, a female student at the Kuwait University Faculty of Law, aged 25, was killed on 8 August when Iraqi authorities opened fire on a peaceful demonstration by a group of women in Jaberiya against the Iraqi occupation of Kuwait. In the same incident a girl in her twenties and two boys (aged 13 and 16) died as a result of head wounds. Iraqi authorities also opened fire on another peaceful demonstration in Ramithiya on 11 August and wounded several persons.

British businessman Douglas Croskery was killed when Iraqi soldiers shot him at the Kuwaiti-Saudi border on 11 August while he was trying to cross into Saudi Arabia.

Citizen Ahmed Qabazared, in his late thirties and employed by the Ministry of the Interior, was arrested for possession of leaflets. In the first week of September, he was returned home in Jaberiya, all members of his family were brought outside the house, the house was burned and he was shot in

the presence of his entire family. Signs of severe torture were apparent on his hands, feet and the rest of his body. His left ear was cut, his right eye was plucked out and his fingernails and toenails were pulled out; cigarette burns were evident all over his body.

Citizen Saleh Hussein was arrested on 2 September at his home in Sabiya with some of his guests. He was executed on 8 September in front of his house in the presence of his mother, brothers and neighbours. According to the doctor who examined the body, there were clear signs of torture by electricity and burning by hot iron rods on his back, abdomen and hands. It was also clear that cigarettes were used to burn his entire body.

Citizen Badr Rajab, who was employed by Sabiya Co-operative and a father of eight children, was found dead in a garbage sack on 8 September in Sabiya. His hands were tied and his head was wrapped in the Kuwaiti flag. The cause of death was two blows on the head above the ear. It was said that he was planning with others to set up a bakery in his area.

Iraqis killed seven young Kuwaitis in September after detaining them for two weeks during which they were subject to severe torture. The seven were doing voluntary social work in Mubarak Hospital.

Eyewitnesses report that, on 9 September, a number of wounded Iraqi military men were brought to Al-Addan Hospital for treatment. An officer died on the same day and the Iraqis executed five employees of the hospital, including Citizen Adel Dashti, of the hospital public relations section, on the charge that they neglected to treat the Iraqi officer.

Kuwaiti doctor Hisham Al-Abeidan, in his thirties, was a member of the staff of the Obstetrics Hospital. He was arrested at his home on 1 October and accused of providing medical treatment to members of the resistance. He was executed in front of his house a few days later. According to the Egyptian doctor who examined the body, the deceased was tortured cruelly during his detention.

There is also the tragedy of a 19-year-old Kuwaiti student who was arrested on 11 September because he did not hand over his hunting rifles to the Iraqi authorities. He was detained for two weeks in a house in Jahra during which he was tortured. At 2.30 a.m. on 24 September, an officer told all detainees that they would be released upon instructions from the President of Iraq. The Kuwaiti youth was removed with 11 other detainees in a bus to the Dasman Palace where he was put on a bus with two others to take them home. The bus moved towards Al-Fayhaa district, where one of the detainees lived. In front of a house, the detainees were ordered to get out of the bus and stand in line in front of a house where they were blindfolded and shot. The three fell, two died, but the young man was wounded in the head. After Iraqi soldiers ascertained that the three had been shot in the head, they left the place, but the young man crawled to a neighbouring house, where he was treated.

Sexual Abuse and Rape

Iraqi soldiers committed the worst crimes against Kuwaiti citizens and residents of different nationalities in Kuwait. These include the sexual abuse and rape of women, as well as of men and children. In committing these

abhorrent, immoral, irreligious and inhuman crimes, the Iraqis have added a black record to the history of mankind. They have violated article 27 of the 1949 Geneva Convention Relative to the Protection of Civilian Persons in Time of War and article 76 of Additional Protocol I.

We give here some examples of the brutal and shameful acts committed by Iraqi soldiers in occupied Kuwait. According to those who have left Kuwait, there are hundreds of cases of the sexual abuse of males and females, of Kuwaiti and other nationalities. However, in view of prevailing social traditions and customs and the implications of these shameful acts, the majority of cases of sexual abuse are, and will remain, under the seal of secrecy.

On the first day of the invasion, Iraqi soldiers sexually abused eight Philippine nurses in Al-Jahrah Hospital. In September, they sexually abused nurses of the same nationality in Al-Sabah Hospital. This brutal act terrified the rest of the nurses, especially the Philippine ones, who make up most of the medical staff in Kuwait, and they had to run away.

Dr. Fawziyah Al-Gattan, a gynaecologist, stated in her testimony to the House of Commons Foreign Affairs Committee that, during her work at the maternity hospital in Al-Sabah neighbourhood, she treated a large number of women of various nationalities who had been sexually and brutally abused by Iraqi soldiers. She described some cases as follows:

"I recall that, during the early days of the invasion, five Iraqi soldiers repeatedly sexually abused a Jordanian woman in her 20s after having kidnapped her on the street. Seven Iraqi soldiers also sexually abused a Palestinian woman kidnapped on the street. I tried to treat the wounds of the victims but I was unable to relieve their psychological pain and suffering, which will undoubtedly be a nightmare for them for the rest of their lives."

Dr. Fawziyah went on to say: "I remember very well that, on 11 November, a Kuwaiti woman came to the hospital with her two daughters; she was trying to relieve them of the psychological shock they had had. She told me that Iraqi soldiers entered her house in the early morning hours and began beating the men and threatening them with guns. They took all the members of the family to the first floor, then they took the two girls one after the other to a separate room where they sexually abused them while the rest of the family listened to their cries without being able to do anything. The soldiers forced the mother to witness the sexual abuse of her single daughters".

A gynaecologist working at the maternity hospital during the early weeks of the invasion said: "Iraqi soldiers sexually abused a 20-year old Jordanian girl kidnapped on the street while she was going to the grocery store. Then she was thrown back on to the street once again. When I examined the victim, I found her vagina swollen as a result of violent rape. I also found traces of scratches and bruises on her face and hands. She was in a hysterical state".

The same doctor said in his report: "Iraqi policemen brought two girls to the hospital, one a 20-year-old of unknown nationality. She told me that, while she and her family were sleeping, Iraqi soldiers came to their house at about 6 a.m. and went up to the top floor, where they sodomized her several times". The doctor added: "When I examined her, I noticed a 4 cm fissure

close to her vagina, which was treated with five stitches. In addition, I found signs of resistance on her body. The victim stated that the soldiers also raped her two older sisters". He also said that he knew of many such cases, but the victims did not want to reveal their identity.

Two Kuwaiti girls, 18 and 19 years of age, were taken from their house in Kuwait by occupation soldiers and sexually abused throughout the night. The aim was to force them to confess that their brother was a member of the Kuwaiti resistance. The next day, their brother went to the Iraqi authorities and lied to them, saying that he was a member of the resistance in order to save his sisters. He was punished by severe torture, including having his toe nails pulled out.

In September, a Western woman was sexually abused and soldiers forced her husband to witness the crime.

Iraqi soldiers at an inspection post forced Kuwaiti women to take off their clothes and walk back and forth while Iraqi soldiers cheered and laughed.

A report by Amnesty International (December 1990) states: "Since the beginning of September, Amnesty International has received increasing reports of sexual abuse of Kuwaiti and Arab women by Iraqi military men". An Egyptian diplomat states that, on 3 August, Iraqi soldiers sexually abused three Egyptian hostages staying at the Meridien Hotel. An Egyptian nurse working at Mubarak Hospital said that, in the hospital, she treated many cases of sexual abuse, including the case of a hysterical Kuwaiti woman from Al-Salimiyeah neighbourhood. A medical doctor of the Kuwaiti Red Crescent said that, according to their sources, Al-Jahrah Hospital received 15 cases of sexual abuse, Al-Rakah Hospital 15 cases and the maternity hospital 3 cases. An Egyptian doctor working in Al-Sabah Hospital said that a Kuwaiti woman of a well-known family from Al-Jabiriyah neighbourhood came to the hospital with her 19-year-old daughter, saying that, at the end of August, while her daughter was returning home from the co-operative after having bought food, she was followed by three Iraqi soldiers and an officer. The mother knew what they were up to, so she pleaded with them not to abuse her virgin daughter sexually, and offered herself to them in order to spare her daughter. That is what actually happened.

The Amnesty International report also states: "A Kuwaiti woman left Kuwait on 27 November because she and her sister were threatened with sexual abuse in front of their brother, a journalist, who was arrested for his opposition to the Iraqi régime, in order to obtain information from him. This woman also described the tragedy of a Kuwaiti family living in the Al-Remethiyah neighbourhood, where Iraqi soldiers sexually abused four daughters in the presence of their father. She also told the story of a Kuwaiti girl whom she saw naked and sexually abused at Sabah Al-Salim police station".

Acts of sexual abuse by Iraqi soldiers and authorities are not limited to women, but extend to many men and children, especially those detained and tortured to make them provide information. There are many examples of threats against, and the sexual abuse of men, as indicated in the reports of humanitarian organizations.

A man in his thirties told an Amnesty International Official that he was arrested on 22 September. One of the acts of torture he was subjected to was that Iraqis spread his legs and introduced a bottle neck up his anus.

A 17-year-old student said that he had been detained for two months in Basra and subjected to various acts of torture, including sexual abuse by means of the neck of a whisky bottle.

Violation of the rights of non-Kuwaitis

The question of occupied Kuwait is a humanitarian issue with international dimensions. Suffering has not been limited to Kuwaitis, for war and repression by Iraqi authorities have affected nearly 1.5 million persons from more than 120 States who were making their living in Kuwait and contributing to the country's development and civilization.

The Iraqi invaders have made no distinction between Kuwaitis and other Arab citizens in denying them their basic human rights. Arabs working in Kuwait have been tragically affected, for many of them have been detained and subjected with their families to ill-treatment, including insults, beating, sexual abuse, confiscation of property, curfew, expulsion from their homes and confiscation of their cars.

The Palestinians are the most affected Arab community; nearly 400,000 of them lived in Kuwait before the invasion. Kuwait gave them a livelihood and shelter. They enjoyed a comfortable life and received free medical treatment and education in public hospitals and schools.

As a result of the Iraqi invasion of Kuwait and the repressive practices engaged in, more than 250,000 Palestinians left Kuwait for Jordan, leaving behind their livelihoods, including their shops, public and non-public posts, property, wealth and bank deposits. As for Palestinians who decided to stay in Kuwait, their actual material incomes have gone down because their monthly salaries are paid in Iraqi dinars, which have a low purchasing power after having been placed on a par with the Kuwaiti dinar. The Palestinians' salaries are therefore equivalent to 10 per cent of their value before the invasion. As a result, they lost their bank savings and became unable to send remittances to their relatives in Jordan and occupied territories or to their children studying abroad and to pay the liberation tax.

The Egyptians are the other Arab community which has also suffered a great deal. More than 200,000 Egyptians used to work in various fields such as medicine, teaching, law, nursing, secretarial work, industry, agriculture and construction. Some Egyptians had been living in Kuwait for more than 35 years and Kuwait was considered their second home. They lost the savings they had placed in Kuwaiti banks throughout their lives.

Egyptians in Kuwait suffered a great deal, for they were treated very badly by the invading Iraqi authorities, especially after Egypt made known its official position rejecting the Iraqi occupation of Kuwait. Most of them left Kuwait for Egypt via Iraq and Jordan under very harsh and dangerous conditions, which led in some cases to the death of many men, children and women in the desert because they were shot at by Iraqi soldiers or because of thirst and extreme heat.

Iraqi soldiers applied this cruel and brutal treatment to citizens of other Arab countries which rejected the Iraqi occupation of Kuwait, such as Syria and Lebanon. Reports received by humanitarian organizations dealing with human rights state that Iraqi soldiers sexually abused many Arab women, especially Egyptian, Jordanian and Palestinian women.

As for citizens of Western States and Japan, their suffering was different. They lived in a state of fear of being killed by Iraqis. This was after Iraq's decision of 25 August to require every Western and Japanese foreigner to give himself up to the Iraqi authorities (the decision also provided for the execution of anyone who gives shelter to a foreigner or helps him hide or run away). Thousands of foreigners were arrested, especially Americans, Canadians, English, French and citizens of other European countries, as well as Japanese, all of whom were taken to Baghdad. Iraq announced that they had been placed at military and industrial installations as human shields, thus violating international conventions, especially article 51, paragraph 7, of Additional Protocol I to the 1949 Geneva Conventions. These captives lived in a state of anxiety, terror and fear for their fate and that of their families. Even those who were not arrested did not dare leave their hiding places to meet their needs. They lived in a state of constant terror and were very afraid of being discovered or that the persons who gave them shelter and helped them obtain food would be arrested.

In addition to all this suffering, many foreign women were subjected to sexual abuse or the threat of sexual abuse and personal insults in the presence of their husbands and children.

Before the Iraqi invasion, there were about 450,000 Asians, most of whom were from India, Pakistan, Philippines and Bangladesh, who came to make their living in Kuwait. Their remittances to their countries, which amounted to millions of dollars annually, supported hundreds of thousands of families in those countries. These persons lived, and some still live, in a situation that is no less tragic than the situation of Kuwaitis themselves, for they were subjected to captivity, threats, torture, sexual abuse and killing. Many Asians have described their agony during their journeys back to their countries via Iraq and Jordan after having lost their savings and have told stories of hunger, pain, torture and insults. The Iraqi authorities also took away what was left of their savings and personal possessions.

Desecration of holy places and prevention of worship

Iraqi soldiers committed shameful acts contrary to the divine laws and teachings of various religions, including the desecration of mosques and churches in Kuwait. They not only bombarded these places with tank cannons, but also entered them with weapons and used them as headquarters for soldiers, in violation of article 53 of Additional Protocol I to the 1949 Geneva Conventions.

According to refugee witnesses from Kuwait, the Iraqis prevented worshippers from holding collective prayers and delivering speeches calling upon people to hold together and ask God to save Kuwait and citizens from the tyranny of the Iraqi invasion.

In addition, the Iraqi authorities insulted religious men and imams of mosques and desecrated the Holy Koran by throwing it on the ground and treading on it. On Friday, 3 August, Iraqi soldiers forced their way into a mosque in the Kefan neighbourhood where hundreds of Kuwaiti citizens had gathered for the Friday prayer. The soldiers ordered worshippers to leave the mosque and, when some of them refused to do so, a number of them were shot and killed. Several mosques were closed after their imams had been arrested for their opposition to the Iraqi invasion. The Iraqi authorities issued an order to have beards shaven, since they are a sign of religiosity; Iraqi soldiers plucked out hair from the face of anyone who resisted this order and, in some cases, they burnt the detainees' beards.

Iraqis denied worship on Sundays to about 300,000 or 400,000 Christians of Western, Asian and Arab communities, after having looted churches and destroyed places of prayer. Christians who have fled Kuwait have described their deep suffering as a result of the Iraqi soldiers' conduct and inhuman treatment.

The invasion of Kuwait on 2 August 1990 is the tragedy not only of Kuwait and the Kuwaitis, but also of the whole world. The events of Kuwait have adversely affected the States and peoples of the region and the States of the Arab and Islamic world. These events have especially affected the economies of countries that used to depend on the Gulf States for imported employment, trade, loans and foreign aid.

According to what has been said in the present report, there is no doubt that the Iraqi invading forces have committed, and continue to commit, the worst crimes against Kuwaitis and residents of Kuwait without any deterrent in terms of conscience, religion or law. They have added a black record to the history of Iraq and of mankind. If these acts suggest anything, it is the brutality of the Iraqi régime and Iraq's non-respect for human rights and non-compliance with international conventions, especially the 1949 Geneva Conventions and their Additional Protocols.